

**§ 102.26 Special procedures: Medical records.**

(a) No response to any request for access to medical records by an individual will be issued by the Privacy Officer for a period of seven working days (*i.e.*, excluding Saturdays, Sundays, and legal public holidays) from the date of receipt.

(b) USPTO has published as a routine use, for all systems of records containing medical records, consultations with an individual's physician or psychologist if, in the sole judgment of USPTO, disclosure could have an adverse effect upon the individual. The mandatory waiting period set forth in paragraph (a) of this section will permit exercise of this routine use in appropriate cases. USPTO will pay no cost of any such consultation.

(c) In every case of a request by an individual for access to medical records, the Privacy Officer shall:

(1) Inform the individual of the waiting period prescribed in paragraph (a) of this section;

(2) Obtain the name and address of the individual's physician and/or psychologist, if the individual consents to give them;

(3) Obtain specific, written consent for USPTO to consult the individual's physician and/or psychologist in the event that USPTO believes such consultation is advisable, if the individual consents to give such authorization;

(4) Obtain specific, written consent for USPTO to provide the medical records to the individual's physician or psychologist in the event that USPTO believes access to the record by the individual is best effected under the guidance of the individual's physician or psychologist, if the individual consents to give such authorization; and

(5) Forward the individual's medical record to USPTO's medical expert for review and a determination on whether consultation with or transmittal of the medical records to the individual's physician or psychologist is warranted. If the consultation with or transmittal of such records to the individual's physician or psychologist is determined to be warranted, USPTO's medical expert shall so consult or transmit. Whether or not such a consultation or transmittal occurs, USPTO's medical officer

shall provide instruction to the Privacy Officer regarding the conditions of access by the individual to his or her medical records.

(d) If an individual refuses in writing to give the names and consents set forth in paragraphs (c)(2) through (c)(4) of this section and USPTO has determined that disclosure could have an adverse effect upon the individual, USPTO shall give the individual access to said records by means of a copy, provided without cost to the requester, sent registered mail return receipt requested.

**§ 102.27 Procedures for making requests for correction or amendment.**

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request for correction or amendment to USPTO. The request should be made either in person or by mail addressed to the Privacy Officer who processed the individual's request for access to the record, and to whom is delegated authority to make initial determinations on requests for correction or amendment. The office of the Privacy Officer is open to the public between the hours of 9 a.m. and 4 p.m., Monday through Friday (excluding legal public holidays).

(b) Requests submitted by mail should include the words "PRIVACY ACT REQUEST" in capital letters at the top of the letter and on the face of the envelope. Any request which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in this paragraph will be so addressed and marked by USPTO personnel and forwarded immediately to the Privacy Officer. A request which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring the time period for response until actual receipt by the Privacy Officer. In each instance when a request so forwarded is received, the Privacy Officer shall notify the individual that his or her request was improperly addressed and the date the request was received at the proper address.

(c) Since the request, in all cases, will follow a request for access under § 102.25, the individual's identity will be established by his or her signature on the request and use of the USPTO control number assigned to the request.

(d) A request for correction or amendment should include the following:

(1) Specific identification of the record sought to be corrected or amended (for example, description, title, date, paragraph, sentence, line and words);

(2) The specific wording to be deleted, if any;

(3) The specific wording to be inserted or added, if any, and the exact place at which to be inserted or added; and

(4) A statement of the basis for the requested correction or amendment, with all available supporting documents and materials which substantiate the statement. The statement should identify the criterion of the Act being invoked, that is, whether the information in the record is unnecessary, inaccurate, irrelevant, untimely or incomplete.

**§ 102.28 Review of requests for correction or amendment.**

(a)(1)(i) Not later than ten working days (*i.e.*, excluding Saturdays, Sundays and legal public holidays) after receipt of a request to correct or amend a record, the Privacy Officer shall send an acknowledgment providing an estimate of time within which action will be taken on the request and asking for such further information as may be necessary to process the request. The estimate of time may take into account unusual circumstances as described in § 102.25(a). No acknowledgment will be sent if the request can be reviewed, processed, and the individual notified of the results of review (either compliance or denial) within the ten working days. Requests filed in person will be acknowledged in writing at the time submitted.

(ii) If the Privacy Officer fails to send the acknowledgment within ten working days, as provided in paragraph (a)(1)(i) of this section, the requester may ask the General Counsel to take corrective action. No failure of the Pri-

vacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(2) Promptly after acknowledging receipt of a request, or after receiving such further information as might have been requested, or after arriving at a decision within the ten working days, the Privacy Officer shall either:

(i) Make the requested correction or amendment and advise the individual in writing of such action, providing either a copy of the corrected or amended record or a statement as to the means whereby the correction or amendment was effected in cases where a copy cannot be provided (for example, erasure of information from a record maintained only in magnetically recorded computer files); or

(ii) Inform the individual in writing that his or her request is denied and provide the following information:

(A) The Privacy Officer's name and title or position;

(B) The date of the denial;

(C) The reasons for the denial, including citation to the appropriate sections of the Act and this subpart; and

(D) The procedures for appeal of the denial as set forth in § 102.29, including the address of the General Counsel.

(3) The term *promptly* in this section means within thirty working days (*i.e.*, excluding Saturdays, Sundays, and legal public holidays). If the Privacy Officer cannot make the determination within thirty working days, the individual will be advised in writing of the reason therefor and of the estimated date by which the determination will be made.

(b) Whenever an individual's record is corrected or amended pursuant to a request by that individual, the Privacy Officer shall be responsible for notifying all persons and agencies to which the corrected or amended portion of the record had been disclosed prior to its correction or amendment, if an accounting of such disclosure required by the Act was made. The notification shall require a recipient agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record, and to apprise any agency or person to which it had disclosed the record of the substance of the correction or amendment.